

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 9615 of 2004

Between:

Dr. Pentapati Pullarao, S/o. Gangaraju,
R/o. Polavaram, West Godavari District.

..... PETITIONER

AND

1 The National Highway Authority of India, Dwaraka, New Delhi-110 045 through its Chairman.

2 Ministry of Road Transport & Highways, Government of India, Parivahan Bhavan, 1, Parliament Street, New Delhi - 110 001 through its Secretary.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus directing Respondent Nos. 1 and 2 to immediately take action to provide access roads to the Tadepalligudem By-pass to the people of the said locality in accordance with law to insure in particular that citizens of the said locality are not subject to any discrimination whatsoever.

Counsel for the Petitioner: MR.K.V.UPENDRA GUPTA (not present)

Counsel for the Respondent No.: MR.S.S.VARMA (ADDL CGSC)

The Court made the following :

ORAL ORDER: (per the Hon'ble the Chief Justice)

This petition has been filed in public interest by Dr.P.Pullarao, claiming himself to be a social worker and Chairman of Road Safety Forum. He made grievance in the petition that citizens of Tadepalligudem are being subjected to discrimination and step motherly treatment by the respondents in not providing access roads to Tadepalligudem bypass. According to the petitioner, Food Corporation of India, Central Warehousing Corporation, Railways, private millers and others are having huge godowns near the bypass where considerable quantity of rice is kept. There is also an airfield next to the bypass. Lack of approach roads would mean that most of the traffic would have to use the main roads of Tadepalligudem. Therefore, direction is sought against the respondents for providing sufficient number of approach roads to the bypass.

K.Venkata Ramana, Project Director, National High Ways Authority of India, Project Implementation Unit, Rajahmundry has filed counter affidavit stating that bypasses are being constructed as per the guidelines of the Indian Road Congress and Ministry of Road Transport and Highways, Government of India. He has justified the decision of the National High Ways Authority not to provide approach roads to Tadepalligudem bypass saying that there is no discrimination since the guidelines have been followed. In paragraph 8 of the counter, the position has been clarified saying:

“....that the Central Government approved the formation of a Committee comprising of District Magistrate, Eluru; Chief Vigilance Officer, NHAI, New Delhi; and General Manager (Technical), NHAI, New Delhi to recommend the appropriate alignment of

Tadepalligudem Bypass on NH-5. The Committee inspected the site of bypass (both LHS and RHS alignments) examined various pros and cons, examined the views of the representatives of the people; and convened a joint public hearing and recommended the construction of Tadepalligudem bypass on left hand side while going on existing NH-5 from Eluru to Rajahmundry. Access to bypass was not proposed from the very beginning since Tadepalligudem bypass was planned to be an access controlled bypass and that is why 13 Nos of underpasses in a length of 15 km long bypass were provided so that uninterrupted movement of local traffic/cattle from one side of bypass to other side could be ensured. If any access to the bypass is given, local traffic would go on to the bypass resulting into traffic jam on the bypass similar to the traffic jam occurring presently on NH-5 passing through Tadepalligudem town thereby defeating the purpose of bypass. This bypass was planned to ease the traffic congestion in Tadepalligudem town and if the access is given to the bypass, the same traffic jam would shift from Tadepalligudem town to the junction of access road to bypass. Provision of underpasses has ensured the movement of traffic from one side of the bypass to the other side and once the bypass becomes operational after completion of two railway over bridges falling in the bypass, 80% of the traffic would be diverted to the bypass and the load on Tadepalligudem town will be reduced and traffic through the bypass and through the existing alignment of NH-5 through Tadepalligudem town would go without any traffic jam. The intention of not providing any approach to the bypass was also to discourage ribbon development along National Highway which is a major problem in some of the earlier bypasses constructed where after one bypass, a need for constructing another bypass is arising due to the problem of ribbon development. In the instant case, there is no requirement of access road/service road due to the following reasons also:

a. The alignment of bypass was kept away from Tadepalligudem Town and in such a way to avoid the habitated areas. If the ribbon development and expansion of Municipal Limits are controlled by the State Government, there will be no requirement of access/service road in future also.

b. Provision of 13 Nos. of underpasses in a length of 15 km long bypass so that the local traffic and cattle can pass freely from one side of bypass to other side. The existing NH-5 with the present local roads serves the local traffic needs. Any improvement to this local network of roads on account of local traffic is the responsibility of State Government/Municipality.”

In view of what has been quoted above, we do not find any discrimination having been meted out by the respondents to the citizens of Tadepalligudem inasmuch as decision has been taken by the respondents considering the factual aspects and viability. There is nothing wrong in such a decision.

Be it stated that counter affidavit was filed and a copy in advance was supplied to the petitioner's counsel. Even on the last date, adjournment was sought on behalf of the petitioner. Today, nobody has put in appearance for the petitioner. We are satisfied that there is no substance in the writ petition, which is accordingly dismissed.

DEVINDER GUPTA, CJ

26-10-2004

C.V.RAMULU, J

Tvr

To

1. The Chairman, National Highway Authority of India, Dwaraka, New Delhi-110 045.

2 The Secretary, Ministry of Road Transport & Highways, Government of India, Parivahan Bhavan, 1, Parliament Street, New Delhi - 110 001.

3. 2 CCs to the Additional Central Government Standing Counsel, High Court Buildings, Hyderabad (OUT).

4. 2 CD copies.